



COUNTY AUDITORS OCTOBER CONFERENCE

Department of Local Government Finance

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THE HOMESTEAD CREDIT AND THE IBTR RULING

“A homestead under the tax cap statute, is simply a homestead that is ‘eligible’ for the standard deduction, not a homestead that is the subject of an application for, or that has been granted the standard deduction.”



The homestead credit and the IBTR Ruling

- ✘ The quotation you just read is from a recent Indiana Board of Tax Review (IBTR) ruling in the case of Gerald P. Martin v. Ripley County Assessor.
- ✘ In its ruling, the IBTR noted the additions of tax credits to its jurisdiction was effective July 1, 2011.
- ✘ The practical application of that ruling is that a taxpayer may receive the 1% tax cap even if he or she has not filed for and/or received the homestead deduction.



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- ✗ The IBTR ruling is a change from what the DLGF counseled in the past.



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In their ruling, the IBTR stated, “A taxpayer, however, is not required to apply for the appropriate tax cap; instead, the statute requires the county auditor to identify eligible property, and then apply the credit.”



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- ✗ The IBTR did recognize that a county auditor has no way of knowing whether a taxpayer uses a given property for his or her principal place of residence unless the taxpayer demonstrates that fact (such as when a taxpayer applies for a homestead standard deduction). But it is not necessary for the taxpayer to have applied for or received the homestead deduction in order to receive the 1% cap!!!



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- ✘ Property may receive the 1% tax cap if it is the owner's (or contract buyer who pays the taxes) principal place of residence that consists of a dwelling and real estate not exceeding one (1) acre located in Indiana, even if the owner/taxpayer did not file an application for the homestead standard deduction.



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- ✗ The person's property must be eligible for treatment as homestead property (as that is understood with respect to the homestead standard deduction).
- ✗ For purposes of verifying a person's eligibility for the homestead tax cap, an auditor may request the same kinds of proof that he or she uses to verify a person's eligibility for the homestead deduction.



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- ✗ The IBTR's ruling is applicable only to the homestead tax cap NOT the homestead deduction.
- ✗ The standards for eligibility for the homestead deduction and the verification form (the pink form) did not change!



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- ✘ The IBTR noted that under IC 6-1.1-20.6-8, a taxpayer is not, in any way, required to file for the credit (tax cap).
- ✘ The county auditor must identify the property in the county that is eligible for the credit and apply the credit to the identified property.



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- ✗ The IBTR also noted that it can be just as important to recognize what a statute does not say as to recognize what it does say. In this instance, the language in chapter 20.6 does not state that the homestead deduction must be allowed in order to get the tax credit.



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- ✗ According to the IBTR, an interpretation that requires actually having the homestead deduction on the subject property in order to get the credit would be overly restrictive.
- ✗ Thus, if property is simply eligible for the homestead deduction, the 1% tax cap must be applied to that property.



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Thank you for your time and attention! Enjoy your lunch!

Questions may be submitted to:

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